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10/672,537

09/26/2003

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EXAMINER

LE, KHANH H

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/672,537	<b>Applicant(s)</b> KASIREDDY, VIJAY G.	
	<b>Examiner</b> KHANH H. LE	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is responsive to the original application filed 09/26/2003. Claims 1-36 are pending with claims 1, 13, 25 as independent.

### **Nomenclature and interpretation**

2. For brevity, the following nomenclature (matching the claims language) is used:

DE : “Downstream supply chain entity”

UE: “Upstream supply chain entity”

PI= “particular incentive”

PFD= “particular future date” (for delivery to the customer) or “a future date rather than the current date in exchange for an incentive”

SCD = “a supply channel delay between the DE and an UE” “that represents a time that must elapse before a product in inventory of the UE can be made available to a consumer associated with the downstream supply chain entity”) (i.e. usually simply called a “lead time”).

OLT: (customer) “order lead time” (“the OLT for the product representing a time difference between a PFD and the current date, the OLT being longer than SCD”).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3688

4. **Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 1 and 25:

As to “the cost savings to the DE associated with the OLT and reflected in the PI comprising cost savings associated with the consumer receiving the product at the PFD from current inventory of the UE rather than from current inventory of the DE”, it's not clear what structure of the system or what part of software is actually responsible, since it's just a statement, not a determination or calculation.

Claims 2-12, 26-33 are rejected based on their dependency.

Claims 5 and 29:

As so “the collective cost savings to the DE and the first UE associated with the second OLT and reflected in the second PI comprising collective cost savings associated with the consumer receiving the product at the second PFD from current inventory of the second UE rather than from current inventory of the DE or the first UE”, same issue as with claims 1 and 25 as discussed above.

Claims 6-9, 30-33 are rejected based on their dependency.

Claim 13 (method claim):

As to “to allow the consumer to receive the product at the PFD from current inventory of the UE rather than from current inventory of the DE in exchange for the PI”,

Art Unit: 3688

*“the **cost savings** to the DE associated with the OLT and reflected in the PI comprising cost savings associated with the consumer receiving the product at the PFD from current inventory of the UE rather than from current inventory of the DE”,*

it is not clear whether there is a step of directing delivery to customer directly from current inventory of the UE. As such it is not clear what cost savings associated with the UE are involved, and if and how they are calculated. They should be claimed as positive steps to be given patentable weight.

**As claimed, for prior art application purposes, the above statements are interpreted as statements of purpose or effect (or natural consequence of the previous steps) only, i.e. they have no further impact on the positively recited steps.**

Claims 14-24 are rejected based on their dependency.

Claim 17 (method claim):

As to ‘to allow...’ and “the cost savings to the DE associated with the OLT and reflected in the PI comprising cost savings associated with the consumer receiving the product at the PFD from current inventory of the UE rather than from current inventory of the DE”,

Same issue and interpretation as with claim 13 above.

Claims 18-21 are rejected based on their dependency.

#### ***Claim Rejections - 35 USC § 102***

**4.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an

Art Unit: 3688

international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**5. Claims 1- 11, 13-23, 25-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Franco US 7257552.**

Claims 1, 13, 25 and 2, 14, 26:

Franco discloses consumer products distribution system, customer interface to place orders, customer specifying delivery schedule for “predictive purchasing “, collaboration system along supply chain to reduce costs to involved including consumers ( e.g. abstract, Fig 1, 28A and associated text; excerpts below). Consumers are given incentive discounts to promote the use of Predictive Purchasing, which significantly improves supply chain productivity (e.g. abstract, Fig 28A and associated text; excerpts below; especially\_col. 52 lines 26-67).

Franco further discloses at least the following system and software:

*Description Paragraph - DETX (119):*

*Each Inventory Provider 130 can communicate with the following: (1) The VIMS 200 to fill consumer orders from its Inventory Site 112 or to obtain consumption statistics and forecasts, Virtual Inventory status, and real-time data on consumer orders. (2) The OIMS 111 of a Retailer 110 to negotiate*

Art Unit: 3688

*product supplies, optimize product distribution, minimize total inventory, and reduce distribution cost and time. (3) Each Inventory Site 112 to which it supplies products for the matters related to product deliveries. (4) The PTSS 300 for deliveries or pickups, and time updates for pending deliveries or pickups.*

**Relevant excerpts follow:***Abstract Text - ABTX (1):*

*A real-time transaction processing Consumer Products Distribution System (PDMS) reduces distribution costs, facilitates the distribution of products to consumers and makes online shopping practical. The PDMS integrates Collaborative Inventory Sharing, Order Aggregation, Consumer Predictive Purchasing, Product Transport Support Service, Display Shops, Uniform Consumer Preference Codes, Integrated Virtual Technical Support Centers, and other convenient features. Consumers purchase products through web sites of local and remotely located retailers preferably using Predictive Purchasing. The items purchased from multiple retailers are aggregated at a consumer selected Order Aggregation Site (OAS) based upon a consumer specified schedule. The consumer can pick up the aggregated orders at the selected OAS or have the aggregated orders delivered to a residence. Commercial carriers process consumer parcels at OASs where they are combined with Aggregated Orders for pickup or delivery. Consumers are given incentive discounts to promote the use of Predictive Purchasing, which significantly improves supply chain productivity.*

*Brief Summary Text - BSTX (2):*

*This invention relates generally to a method and system for improving the efficiency and reducing the cost of distributing and selling products to consumers. More particularly, the invention relates to Internet based methods*

Art Unit: 3688

*and systems for Just-In-Time product distribution, inventory sharing, order aggregation, consumer predictive purchasing, and other conveniences and benefits that provide incentives for consumers to shop online.*

*Brief Summary Text - BSTX (14):*

*One aspect of the invention relates to Consumer Predictive Purchasing. In the current product distribution space, vast amounts of extremely valuable predictive consumption data stored in the minds of individual consumers are lost every day to the detriment of the supply chain and the economy. This aspect provides a system and method to collect and store, in real-time, predictive consumer consumption data. The use of this data in supply chain planning and forecasting can significantly contribute to major cost reductions in product manufacturing and distribution. **In one embodiment of this invention, consumers are offered incentive discounts to use the infrastructure provided by the PDMS for predicting their consumption needs at a future date and placing Predictive Purchase orders scheduled for future delivery to fulfill the predicted needs. The incentive discounts can be determined by appropriate algorithms designed to ensure extensive consumer participation. This aspect is discussed in Sections, II.A.7 and VIII of the Detailed Description of the Invention.***

*Brief Summary Text - BSTX (25):*

*One specific object of this invention is to provide a system and method for coordinating the operation of the Collaborative Inventory Sharing aspect. This system and method gives each participating merchant the opportunity to minimize inventory and costs while offering a broader selection of products and better service to consumers. This system and method also offers retailers the opportunity to broaden their customer base, negotiate better terms and prices for their product acquisitions, balance and reduce inventories, and eliminate unnecessary product transportation costs.*



Art Unit: 3688

*Brief Summary Text - BSTX (27):*

*Another specific object of this invention is to provide a system and method for coordinating Consumer Predictive Purchasing. **This system relies upon incentive discounts to encourage consumers to use Predictive Purchase Orders.***

*Brief Summary Text - BSTX (39):*

*All participants in the distribution chain, such as manufacturers, wholesalers, distributors, retailers, and consumers can derive benefits from **this invention**. Manufacturers can obtain accurate real-time data upon which to base production plans. Using a Just-In-Time business model, wholesalers, distributors, and retailers can operate efficiently, with reduced inventories, product costs, shipping costs, and shipping times. **Retailers can ensure that no sales are lost due to lack of inventory** and can better serve their customers with broader product selections. At the end of the distribution chain, consumers can shop comfortably from home, buy products at more competitive prices, receive their purchases more quickly, and have little or no need to drive for shopping.*

*Brief Summary Text - BSTX (48):*

*A. The Virtual Inventory Management System 1. Maintaining Real-Time Inventory Data 2. Virtual Inventory Database Module 3. Management of Product and Financial Transactions 4. Preservation of Privacy 5. Product Search Mechanism 6. Order Aggregation 7. Consumer Predictive Purchasing 8. Uniform Consumer Preference Codes 9. Integrated Technical Support Centers 10. Distributed Exhibition system 11. Product Returning 12. Shipping and Receiving Through Order Aggregation Sites 13. Architecture Scalability 14. Communication Links*

*Brief Summary Text - BSTX (69):*

*VIII. Consumer Predictive Purchasing*

*Brief Summary Text - BSTX (70):*

*A. Consumer Predictive Purchasing Process*

*Description Paragraph - DETX (79):*

*7. Consumer Predictive Purchasing*

*Description Paragraph - DETX (80):*

*The VIMS 200 preferably manages and coordinates the operation of specialized application programs that support Consumer Predictive Purchasing. One of these programs helps consumers predict and plan their household consumption. **Another computes incentive price discounts.** **Using the infrastructure provided by the PDMS 100, consumers can obtain significant price discounts on Predictive Purchase orders scheduled for delivery at some future time determined by the consumer's prediction.** The consumer ordering data can be collected and processed by the PDMS 100 in ***real-time to generate consumption reports that are available to the affected participants in the product distribution path, from the manufacturers that produce the products to the retailers that receive the purchase orders.*** This information gives the manufacturers the opportunity to generate accurate production forecasts and manufacturing schedules and provides the necessary infrastructure for the entire product distribution chain to approach a Just-In-Time operating model.*

*Description Paragraph - DETX (374):*

*VIII. CONSUMER PREDICTIVE PURCHASING*

*Description Paragraph - DETX (375):*

*Consumer Predictive Purchasing was introduced in the "Summary of the Invention" as one aspect that is preferably included in the Product*

Art Unit: 3688

*Distribution Management System (PDMS) 100 and a brief description of its operation was provided in Section II.A.7. This Section describes, with reference to FIG. 28A, a preferred process for the operation of the Consumer Predictive Purchasing system. In addition, this Section describes, with reference to FIGS. 28B and 28C, a preferred system and method, called Consumption Cruise Control (CCC), for smoothing undesirable fluctuations in consumption.*

*Description Paragraph - DETX (376):*

*A. Consumer Predictive Purchasing Process*

*Description Paragraph - DETX (377):*

*The VIMS 200 can provide a system and method, based upon Consumer Predictive Purchasing, to collect and store in real-time the vast amounts of extremely valuable predictive consumption data normally stored in the minds of individual consumers. This consumption data is otherwise lost and serves no useful purpose.*

*Description Paragraph - DETX (379) and (380): (col. 52 lines 26-67).*

***To support Predictive Purchasing, the VIMS can provide specialized application programs that estimate supply chain cost savings resulting from Predictive Purchasing and correlate such savings with the Predictive Purchase Delay (PPD). As used herein, Predictive Purchase Delay (PPD) is the time span between the time the consumer places a Predictive Purchase order and the time the consumer agrees to take possession of the goods purchased. The specialized application programs also correlate the PPD to the incentive price discounts offered to consumers to enable retailers to tailor incentive discounts to the markets they serve and the business models they use. In general, the longer the PPD is, the larger the achievable supply chain cost savings and the***

**incentive price discounts are.**

**The use of Predictive Purchasing can bring major economic benefits to the entire supply chain, some of which can be passed to consumers in terms of incentive price discounts.** For purposes of illustration, assume that based upon historical consumption records maintained by the VIMS 200 on the behalf of a specific consumer, Predictive Purchase orders for milk can be placed by that consumer with a PPD of 10 days. **When the consumer places a Predictive Purchase order, preferably the ordering information becomes available in real-time to all the participants in the supply chain, from the dairy that processes the milk to the retailer that receives the order.** Once a significant percentage of consumers adopt Predictive Purchasing, the dairy can accurately plan and schedule production and significantly improve productivity. **Likewise, the distribution system can operate efficiently with Just-In-Time scheduling. Milk containers can be shipped from the dairy to regional distribution centers and within a few hours be transported by the PTSS 300 to each designated OAS 400 Just-In-Time to meet Order Aggregation schedules. Accordingly, the dairy-to-consumer distribution time and the total inventory of milk in the distribution pipeline can both be reduced to a minimum. In addition, the costs otherwise experienced by Retailers 110 for keeping milk in inventory in expensive shelf space, and other costs associated with handling, spoilage, and overhead can be eliminated. In general, similar productivity improvements for both perishable and non-perishable products can be achieved at most stages of the supply chain.**

Thus Franco discloses at the citations and excerpts above all of claims 1, 13, 25 and 2, 14, 26:

1. A computer-implemented system for distributing consumer demand upstream in a supply chain, the supply chain comprising a DE and one or more UE's

(each UE being associated with a SCD)

the system being associated with the DE and comprising:

an interface operable to:

receive, at a current time, an indication of consumer demand for a product that a consumer may be willing to receive at PFD ;

and communicate the indication of consumer demand for the product (the consumer may be willing to receive at PFD);

a quote system coupled to the interface, the quote system operable to:

receive, from the interface, the current indication of consumer demand for the product the consumer may be willing to receive at PFD;

determine a PI based on an OLT for the product,

(the OLT for the product representing a time difference between a PFD and the current date, the OLT being longer than SCD),

**the PI reflecting cost savings to the DE associated with the OLT;**

and communicate the PI to the interface;

the interface operable to:

receive the PI from the quote system;

Art Unit: 3688

and convey the PI to allow the consumer to choose

(whether to receive the product at the PFD rather than the current date in exchange for the PI);

and a consumer order management system (COMS) operable to:

if the consumer chooses to receive the product at the PFD (rather than the current date in exchange for the PI ),

communicate an order for the product to the UE

(to allow the consumer to receive the product at the PFD from current inventory of the UE rather than from current inventory of the DE in exchange for the PI ),

(the **cost savings** to the DE associated with the OLT and reflected in the PI comprising cost savings associated with the consumer receiving the product at the PFD from current inventory of the UE rather than from current inventory of the DE).

wherein the PI comprises a price discount on the product.

**\*\*\* (NOTE: though disclosed by Franco, as discussed in the discussion of 35 U.S.C. 112, above, the “to allow..” and “the cost savings...comprising....” limitations are also interpreted as statements of purpose or effect (or natural consequence of the previous steps) only, thus do not need to be given patentable weight. This applies to all claims below having similar limitations).**

**Claims 3, 15, 27:**

FRANCO discloses the system, method and software of claims 1, 13, 25 and further discloses wherein the quote system is a first quote system and operable to: collaborate with a

Art Unit: 3688

second quote system associated with the UE to determine a cost at the UE associated with the consumer receiving the product from the current inventory of the UE

*Further Franco ( at e.g. col. 52 lines 26-67) discloses savings are obtained at each step along the supply chain and are passed onto consumers as discounts thus discloses:*

“determine a profit increase on the product at the DE based on:

the cost at the UE associated with supplying the product from the current inventory of the UE;

and the cost savings to the DE associated with the OLT ;

and determine the PI based on the **profit increase**”.

**Claims 4, 16, 28:**

FRANCO discloses the system, method and software of claims 1, 13, 25 and further discloses

wherein the quote system is a first quote system and operable to collaborate with a second quote system associated with the UE to determine the PI based on one or more business rules associated with one or more of the DE's and UE's (implied in citations or excerpts above).

**Claims 5, 17, 28:**

Claims 5 amounts to giving a larger incentive for a longer delivery delay time based on better achieved savings. Franco, reads on such at *(col. 52 lines 26-67)*.

*To support Predictive Purchasing, the VIMS can provide specialized application programs that estimate supply chain cost savings resulting from Predictive Purchasing and correlate such savings with the Predictive Purchase*

Art Unit: 3688

Delay (PPD). As used herein, Predictive Purchase Delay (PPD) is the time span between the time the consumer places a Predictive Purchase order and the time the consumer agrees to take possession of the goods purchased. The specialized application programs also correlate the PPD to the incentive price discounts offered to consumers to enable retailers to tailor incentive discounts to the markets they serve and the business models they use. In general, the longer the PPD is, the larger the achievable supply chain cost savings and the incentive price discounts are.

Thus FRANCO discloses the system, method and software of claims 1, 13, 25 and further discloses:

wherein: the PFD is a first PFD, the PI is a first PI, the UE is a first UE, and the OLT is a first OLT;

the quote system is further operable to:

determine a second PI based on a second OLT for the product,

(the second OLT for the product representing a time difference between a second PFD and the current date, the second OLT being longer than a second supply channel delay between the DE and a second UE),

**(the second PI reflecting collective cost savings to the DE and the first UE associated with the second OLT);**

and communicate the second PI to the interface;

the interface is further operable to: receive the second PI from the quote system;



Art Unit: 3688

and convey the second PI to allow the consumer to choose whether to receive the product at the second PFD rather than the current date in exchange for the second PI;

and the COMS is further operable to,

if the consumer chooses to receive the product at the second PFD rather than the current date in exchange for the second PI ,

communicate an order for the product to the second UE

(to allow the consumer to receive the product at the second PFD from current inventory of the second UE rather than from current inventory of the DE in exchange for the second PI ),

(the collective cost savings to the DE and the first UE associated with the second OLT and reflected in the second PI comprising collective cost savings associated with the consumer receiving the product at the second PFD from current inventory of the second UE rather than from current inventory of the DE or the first UE),

the second PI being larger than the first PI.

**Claims 6, 18, 30:**

FRANCO discloses the system, method and software of claims 5, 17, 28 and further implicitly discloses (at e.g. col. 52 lines 26-67: “ *the longer the PPD is, the larger the achievable supply chain cost savings and the incentive price discounts are.* “):

wherein the interface is operable to convey the first and second PI s to allow the consumer to choose whether to receive the product at the first PFD or the second PFD rather than the current date in exchange for the first PI or the second PI.

Art Unit: 3688

**Claims 7, 19, 31:**

Claims 7, 19, 31 parallel claims 3, 15, 27 as to the second UE.

As discussed above, Franco at col. 52 lines 26-67: “ the longer the PPD is, the larger the achievable supply chain cost savings and the *incentive price discounts are and other citations about sharing savings realized through the supply chain*, reads on claims 7, 19, 31:

Thus FRANCO discloses the system, method and software of claims 5, 17, 28 and further discloses:

wherein the quote system is a first quote system and operable to: collaborate with a second quote system associated with the second UE to

determine a cost at the second UE associated with the consumer receiving the product from the current inventory of the second UE;

determine a profit increase on the product at the DE based on:

the cost at the second UE associated with supplying the product from the current inventory of the second UE ;

and the cost savings to the DE associated with the second OLT ;

and determine the second PI based on the profit increase.

**Claims 8, 20, 32:**

Claims 8, 20, 32 parallels claims 4, 16, 28 as to the second UE.

Art Unit: 3688

As discussed above Franco at col. 52 lines 26-67: “ the longer the PPD is, the larger the achievable supply chain cost savings and the incentive price discounts are” and other citations about sharing savings realized through the supply chain, reads on claims 8, 20, 32.

Thus FRANCO discloses the system, method and software of claims 5, 17, 28 and further discloses:

wherein the quote system is a first quote system and operable to collaborate with one or both of a second quote system associated with the first UE and with a third quote system associated with the second UE to determine the second PI based on one or more business rules associated with one or more of the downstream and first and second upstream supply chain entities.

**Claims 9, 21, 33:**

As with claims 5, 17, 28 above, Franco, in the citations above, reads on repeating the same method of claim 1 further up the chain supply chain, involving more UE's and reflecting more savings with more UE's to be passed on to customers, which reads on claims 9, 21, 33.

Thus FRANCO discloses the system, method and software of claims 5, 17, 28 and further discloses

wherein: the quote system is further operable to:

determine a third PI based on a third OLT for the product,

(the third OLT for the product representing a time difference between a third PFD and the current date, the third OLT being longer than a third supply channel delay between the DE and a third UE),

Art Unit: 3688

the third PI reflecting collective cost savings to the DE and the second UE associated with the third OLT;

and communicate the third PI to the interface; the interface is further operable to: receive the third PI from the quote system; and convey the third PI to allow the consumer to choose whether to receive the product at the third PFD rather than the current date in exchange for the third PI ;

and the COMS is further operable to, if the consumer chooses to receive the product at the third PFD rather than the current date in exchange for the third PI , communicate an order for the product to the third UE

(to allow the consumer to receive the product at the third PFD from current inventory of the third UE rather than from current inventory of the DE in exchange for the third PI) ,

the collective cost savings to the DE and the second UE associated with the third OLT and reflected in the third PI comprising collective cost savings associated with the consumer receiving the product at the third PFD from current inventory of the third UE rather than from current inventory of the downstream supply chain entity, the first UE , or the second UE ,

the third PI being larger than the first PI and the second PI .

**Claims 10, 22, 34:**

FRANCO discloses the system, method and software of claims 1, 13, 25 and further discloses wherein the consumer choosing to receive the product at the future date rather than the current date in exchange for the PI comprises one of: the consumer purchasing the product at the current date; the consumer committing at the current date to purchase the product at the PFD ;

Art Unit: 3688

and the consumer indicating an intention at the current date to purchase the product at the PFD (citations above).

**Claims 11, 23, 35:**

FRANCO discloses the system, method and software of claims 1, 13, 25 and further discloses:

wherein the consumer receiving the product at the PFD comprises one of: the consumer visiting the DE at the PFD to pick up the product; the DE delivering the product to the consumer at the PFD and the UE delivering the product to the consumer at the PFD (e.g. abstract).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 12, 24, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franco as applied to claims 1, 13, 25 above, and further in view of Official Notice.**

**Claims 12, 24, 36:**

FRANCO discloses the system, method and software of claims 1, 13, 25 and discloses extensively about product returns and authorization of such but does not disclose explicitly

Art Unit: 3688

wherein, if the consumer chooses to receive the product at the PFD rather than the current date in exchange for the PI, the consumer makes an initial payment to the retailer at the current date based on one or more costs to the DE associated with cancellation of the order.

However, Official Notice is taken that it is well known for vendors to charge fees or penalties or liquidated damages for cancellation of order to protect vendors from breach of contract by buyers. Usually a deposit or initial payment would be such liquidated damages. An example is loss of deposit in cancellation of buying a house or cancellation of a custom product e.g. a car. Thus it would have been obvious to a PHOSITA to add such customary practice to the system of Franco to protect vendors.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Cheung, Ki Ling, "A continuous review of inventory model with a time discount".**

**IIE Transactions. Volume 30. Issue 8. 1998**, discloses, in time of stock-out crisis, discounts are given to buyers (called a 'time discount' q (e.g. p. 748, col. 2 second to last paragraph) for accepting delayed delivery, (e.g. introduction, p. 747, 748). Cheung discloses the 'time discount' q, should be determined by some marketing research, and should be based on the seller's selling price of the item which in turn is based on the unit purchasing cost to seller (e.g. p. 748, col. 2 last 2 paragraphs).

Dae H. Kim and Kyung S. Park Source, "(Q,r) Inventory Model with a Mixture of Lost Sales and Time-Weighted Backorders",

The Journal of the Operational Research Society, Vol. 36, No. 3, (Mar., 1985), pp. 231- 238. discloses Lost Sales and Time-Weighted Backorders.

An Inventory Model of Immediate and Delayed Delivery

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**Collaboration systems in supply chain:**

**\*\*Bowden 20030074284** discloses inventory cost control, accounting purchase interface. Passing along costs.

**Westcott US 20030200150 A1** discloses collaborative System, carrying costs lowered by renegotiation of supply contracts along the supply chain.

**Faaland US 5524077** discloses Each node is assigned a cost, which corresponds to cost or savings due to delaying the task one time unit. In this invention, the Maximum Flow Procedure is iteratively invoked to determine which tasks can be profitably delayed.

**Koenigbauer 20030050819** discloses computer modeling method to manage global logistics to minimize carrying, transport costs, sharing costs savings between suppliers and manufacturers.

**Waller US -20030195791** method to determine and communicate redistributed product demand

**Lahre 20040024675** discloses Method and system for cash maximization

**Kennedy 6055519** discloses negotiations and tracking of sales of goods/time delays.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

Art Unit: 3688

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Khanh H. Le/

Examiner, Art Unit 3688

April 13, 2008

/James W Myhre/

Primary Examiner, Art Unit 3688